

REMARKS

Claims 8-12 and 16-20 remain in this application.

The present invention is directed to a soy-containing confectionary product prepared by a method in which a soy-containing material is co-caramelized with a sugar to prepare a product that advantageously contains significant amounts of soy protein (i.e., at least about 5 percent soy protein) without having the off-flavors normally associated with soybeans *and* without requiring the use of decaffeinated soy material or pretreatment of the soy materials to provide the desired decaffeinating effect.

The claims as now amended indicate that fat is added prior to caramelization. As indicated at page 8, lines 3-7,

"... the fat is added before caramelization in order to assist in providing a more homogenous distribution of relatively small (typically with an average diameter of about 1 to about 50 microns) fat droplets throughout the product matrix. The fat helps to provide the desired soft and caramel type texture."

The Housez reference does not describe or suggest the fat levels as claimed. Further, Housez does not describe addition of fat prior to caramelization as now claimed. One of ordinary skill reading Housez would have no reason to expect that addition of fat at the claimed levels prior to caramelization would provide a more homogenous distribution of fat droplets and a more desirable texture.

Applicants respectfully request entry of the present amendment, reconsideration and withdrawal of the rejections to remaining claims 8-12 and 16-20, and allowance of this application.

Application No. 10/696,515
AMENDMENT dated February 2, 2009
Reply to Office Action of October 2, 2009

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY

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